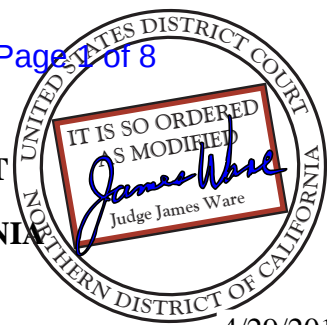


**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**



4/29/2010

ANITA HUNTER, et al.

Case No.: 09-cv-02079 JW

Plaintiffs,

Assigned to Hon. James Ware

vs.

**REVISED STIPULATION RE:
CASE SCHEDULE;
[PROPOSED] ORDER**

CITIBANK, N.A., et al.

Defendants

WHEREAS, the parties have exchanged initial case documents, written discovery has commenced, a limited number of depositions have been taken and the parties are working together to create a deposition protocol to allow numerous additional depositions to be taken;

WHEREAS, the Defendants' Motions to Dismiss the Amended Complaint have been ruled upon, the Second Amended Complaint has been filed, and the Defendants have either filed, or are preparing to issue their responsive pleadings, which include at least some additional Motions to Dismiss;

WHEREAS, the Motion for preliminary approval of the Wave II Settlements was filed in early April, the Wave II preliminary approval Hearing is scheduled for May 10, and the Wave II Final Fairness Hearing is anticipated to occur in August;

WHEREAS, the Plaintiffs and certain Defendants are in active settlement discussions, and they desire time to allow those discussions to develop so that a determination can be made as to whether additional Wave II or Wave III Settlements can be reached;

WHEREAS, the parties agreed upon an aggressive discovery schedule so that discovery in this action could be coordinated with the two adversary proceedings ("Adversaries") involving parties that are also defendants in this case (Citibank and Boulder) pending before Judge Martin Glenn of the Bankruptcy Court for the Southern District of New York, as well as with any additional Adversary proceedings which the Trustee may file against Defendants in

1 this action. However, Citibank's Motion to Dismiss the complaint in the Adversary action
2 pending against it has been granted, an amended complaint has been filed, and a new round of
3 briefing is underway, and, the Trustee has not yet filed additional Adversary Proceedings;

4 WHEREAS, the depositions of the incarcerated defendants (Ed Okun, Lara Coleman,
5 David Field and Richard Simring), which could prove important to certain of the claims and
6 potential defenses at issue, cannot, pursuant to Federal Rule of Civil Procedure 30, be taken
7 without leave of Court. Plaintiffs have filed a Motion to allow those depositions to be taken
8 and Plaintiffs have communicated with the four Federal Prisons where the defendants are
9 incarcerated so that Plaintiffs (as well as any other parties who wish to participate in the prison
10 depositions) can begin to make the arrangements necessary for those depositions to be taken at
11 the prisons. It is anticipated that those arrangements will require some effort by all involved;

12 WHEREAS, discovery and depositions have not proceeded as quickly as had been
13 contemplated by the initial scheduling order and the timing of depositions was further delayed
14 when the Plaintiffs were required to file a Second Amended Complaint which will soon be
15 addressed by motions to dismiss. It is now apparent that the deadlines set forth by the initial
16 scheduling order are not realistic.

17 WHEREAS, based on the foregoing, the parties hereto agree that the discovery plan
18 forth in Docket No. 128 and the case schedule set forth in Docket No.162 should be modified to
19 allow time for the forthcoming Motions to Dismiss to be resolved, additional document
20 discovery to take place, numerous additional depositions to be taken, the Wave II Settlement
21 approval process to be concluded, and for additional settlement discussions to develop;

22 WHEREAS, the parties intend to continue to comply with the orders of this Court and
23 the Bankruptcy Court directing that discovery in this action and in the Adversaries be
24 coordinated, and the parties to the Adversaries will seek discovery schedules which comport
25 with the below;
26
27
28

NOW THEREFORE, based on the foregoing, the below identified parties HEREBY AGREE and STIPULATE THAT the case schedule set forth in Docket No.162 should be modified as set forth below:

CASE SCHEDULE

EVENT	DATE
Fact Discovery Cut-Off	October 14, 2010
Disclosure of Expert Witnesses (122 days before the Close of All Discovery)	November 19, 2010
Disclosure of Rebuttal Expert Witnesses (108 days before the Close of All Discovery)	December 17, 2010
Preliminary Pretrial Conference Statements (10 days before the Conference)	February 4, 2011
Preliminary Pretrial Conference at 11:00 a.m. (30 days before the Close of All Discovery)	February 14, 2011
Close of All Discovery	March 15, 2011
Last Date for Hearing on Class Certification Motion	February 28, 2011
Last Date for Hearing Dispositive Motions (60 days after the Close of All Discovery)	May 16, 2011

IT IS SO STIPULATED.

Dated: April 23, 2010

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1 Dated: April 23, 2010

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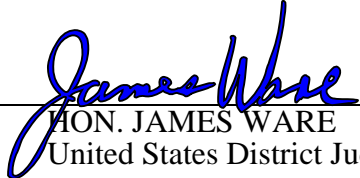
1 Dated: April 23, 2010

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3 By: /s/ Lawrence Kellogg
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6 **IT IS SO ORDERED.**

7 DATED: April 29, 2010

9
10 
HON. JAMES WARE
United States District Judge

13 I, Kevin M. Fee am the ECF User whose ID and password are being used to file this
14 **STIPULATION RE: CASE SCHEDULE; [PROPOSED] ORDER.** In compliance with
15 General Order 45, X.B., I hereby attest that the counsel whose e-signatures appear on the
16 foregoing signature pages have concurred in this filing.

18 /s/ Kevin M. Fee
19 Kevin M. Fee

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